

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

ROBYN SMITH for DEVAN
VANBRUNT, a Minor, by his Mother and
Natural Guardian,

**Court File No.: 0:11-cv-01771
(RHK/LIB)**

Plaintiff,

v.

BLITZ U.S.A. INC., WAL-MART
STORES, INC., and KINDERHOOK
INDUSTRIES, LLC,

Defendants.

**DEFENDANT KINDERHOOK INDUSTRIES, LLC'S MOTION
TO DISMISS OR, IN THE ALTERNATIVE, TRANSFER
OR, IN THE ALTERNATIVE, STAY**

Defendant Kinderhook Industries, LLC respectfully submits, by special appearance, this Motion to Dismiss the count of the Second Amended Complaint alleged against them pursuant to Rules 12(b)(2) and 12(b)(6) of the Federal Rules of Civil Procedure or, in the alternative, Motion to Transfer the claim pursuant to 28 U.S.C. § 1412 or, in the alternative, Motion to Stay the claim pursuant to 11 U.S.C. § 362(a) and the Court's inherent power to manage its docket. Kinderhook Industries, LLC does not waive any rights or defenses to the lack of personal jurisdiction by this special appearance. Kinderhook Industries, LLC, a Delaware company based in New York with no Minnesota members, does not have the requisite minimum contacts

with the State of Minnesota to justify this Court's exercise of either general or specific jurisdiction over it. Should the Court determine that jurisdiction is proper in Minnesota, Kinderhook Industries, LLC moves for dismissal pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure or, in the alternative, for the claim against it to be transferred or stayed.

Dated: June 27, 2012

By: s/Seth Leventhal

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